

March 18, 2005

Below is the proposed bill that would amend the Land Use Code (Title 23) to allow the use of development rights from a major performing arts facility on the same basis as transferable development rights from low-income housing in certain Downtown zones. Following the bill is an additional section that the Urban Development and Planning Committee will consider when they review the legislation. For more information regarding the proposed legislation may be directed to Rebecca Herzfeld at (206) 615-1674 or via email at rebecca.herzfeld@seattle.gov.

PROPOSED ORDINANCE

AN ORDINANCE relating to land use, amending Seattle Municipal Code Section 23.49.011 to allow the use of development rights from a major performing arts facility on the same basis as transferable development rights from low-income housing in certain Downtown zones.

WHEREAS, in August, 2001, in Ordinance 120443, the City modified development regulations in downtown zones to provide, among other things, that for a project to achieve chargeable floor area exceeding the base Floor Area Ratio (FAR) by more than one FAR, a developer would use transferable development rights (“TDR”) from housing, and/or bonuses for voluntary agreements to provide housing and child care, for 75 percent of such additional chargeable floor area, with certain exceptions; and

WHEREAS, Ordinance 120443 also removed major performing arts facilities (“MPAFs”) as eligible sending sites for TDR, but allowed the use of remaining TDR, from a facility that had already satisfied conditions for transfer, to add floor area to projects to which prior Code provisions would apply, or to add floor area to new projects on the same basis as other TDR not from low-income housing; and

WHEREAS, at the time of Ordinance 120443, in July 2001, it was reasonably anticipated that such remaining MPAF TDR soon would be absorbed by one or more projects being developed under prior Code provisions; and

WHEREAS, after the events of September 2001, certain then pending projects did not proceed; and

WHEREAS, 100,000 square feet of unused MPAF TDR still remains, which together with available TDR from Landmark properties and open space, results in a greater supply of non-housing TDR than was anticipated when the 75% rule in Ordinance 120443 was established; and

WHEREAS, because transfers from new major performing arts facilities are no longer permitted, allowing the use of remaining MPAF TDR on the same basis as housing TDR, rather than on a basis that competes with other TDR, will further the policies supporting the use of TDR from Landmarks and open space without making a permanent change in options available under the 75% provision described above;

NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of SMC 23.49.011 of the Seattle Municipal Code (SMC), which section was last amended by Ordinance 121278, is amended as follows:

SMC 23.49.011 Floor area ratio.

A. General Standards.

1. The base and maximum floor area ratio (FAR) for each zone is provided in Chart 23.49.011 A.

2. Chargeable floor area shall not exceed the applicable base FAR except as expressly authorized pursuant to the provisions of this chapter.

a. In DOC1 and DOC2 zones the first one (1) FAR above the base FAR may be gained, at the applicant's option, by any combination of the following: providing one of the amenity features listed in Section 23.49.013, subject to the limits and conditions in that section; providing short-term parking meeting the basic standards in the Public Benefit Features Rule, where such parking is eligible pursuant to Map 1N; providing retail sales and service or entertainment uses as street-level uses meeting the requirements of Section 23.49.025, where such uses are eligible as indicated on Map 1N; or using development rights transferred from an open space TDR site or Landmark TDR site pursuant to Section 23.49.014. An applicant using the option allowed under this subsection A2a may achieve additional chargeable floor area consistent with subsections A2d through A2g of this section.

b. In the DMC zone chargeable floor area above the base FAR may be achieved, at the applicant's option, by qualifying for bonuses pursuant to Section

23.49.126, Downtown Mixed Commercial, ratios for public benefit features. Such option may be exercised only by election in writing by the applicant as part of the original application for a Master Use Permit, or within sixty (60) days of the effective date of Ordinance 120443, for the project that will use such bonus. An applicant making such election shall not be granted bonus floor area for the lot pursuant to Section((§)) 23.49.012 or 23.49.013, but may use TDR consistent with Section 23.49.014. An applicant making such election thereby also elects to have the optional exemptions under subsection B3 of this section, and not those in subsection B1, apply in determining chargeable floor area.

c. On lots zoned DOC1 and DMC chargeable floor area above the base FAR may be achieved by using within-block TDR pursuant to Section 23.49.014, Transfer of development rights (TDR), and by meeting the requirements of subsections A2d through A2g of this section.

d. Except as provided in subsections A2a, A2b, and A2c of this section, additional chargeable floor area above the base FAR may be achieved only by qualifying for bonuses pursuant to Section((§)) 23.49.012 or 23.49.013, or by the transfer of development rights pursuant to Section 23.49.014, or both, subject to the limits of this chapter and to any other applicable conditions and limitations.

e. In no event shall the use of bonuses or TDR be allowed to result in chargeable floor area in excess of the maximum as set forth in Chart A, except that a structure on a lot zoned both DOC1 and DMC may exceed the floor area ratio permitted in either zone, provided the chargeable floor area on the lot as a whole does not exceed the combined total permitted chargeable floor area.

f. Except as otherwise provided in this subsection A2f, not less than five (5) percent of all floor area above the base FAR to be gained on any lot, excluding any floor area gained under subsection A2a or A2c of this Section, shall be gained through the transfer of Landmark TDR, to the extent that Landmark TDR is available. Landmark

TDR shall be considered "available" only to the extent that, at the time of the Master Use Permit application to gain the additional floor area, the City of Seattle is offering Landmark TDR for sale, at a price per square foot no greater than the total bonus contribution under Section 23.49.012 for a project using the cash option for both housing and childcare facilities. An applicant may satisfy the minimum Landmark TDR requirement in this section by purchases from private parties, by transfer from an eligible sending lot owned by the applicant, by purchase from the City, or by any combination of the foregoing. This subsection A2f does not apply to any lot in a DMR zone, or to any lot in a DMC zone for which an election has been made under subsection A2b of this section.

g. On any lot except a lot in a DMR zone or a lot in a DMC zone for which an election has been made under subsection A2b of this section, the total amount of chargeable floor area gained through bonuses under Section 23.49.012, together with any housing TDR used for the same project and any TDR that is transferable from a major performing arts facility pursuant to Section 23.49.014G used for the same project, shall equal seventy-five (75) percent of the amount, if any, by which the total chargeable floor area to be permitted on the lot exceeds the sum of (i) the base FAR, as determined under this section and Section 23.49.032 if applicable, plus (ii) any chargeable floor area gained on the lot pursuant to subsection A2a or A2c of this section. The remaining twenty-five (25) percent shall be gained through other bonuses or through TDR that is neither housing TDR nor is transferable based solely on the status of the sending lot as a major performing arts facility, or through a combination of both other bonuses and such TDR, consistent with this chapter.

h. In order to gain chargeable floor area on any lot in a DMR zone, an applicant may (i) use any types of TDR eligible under this chapter in any proportions, or (ii) use bonuses under Section 23.49.012 or 23.49.013, or both, subject to the limits for

particular types of bonus under Section 23.49.013, or (iii) combine such TDR and bonuses in any proportions.

i. Bonuses for street-level uses may be allowed only pursuant to subsection A2a or A2b of this section. Bonuses for short-term parking may be allowed only pursuant to subsection A2a of this section. The bonus ratio for street-level uses is three square feet of floor area granted per one square foot (3:1) of bonus feature. The bonus ratio for short-term parking is one (1) square foot of floor area granted per one (1) square foot (1:1) of bonus feature up to a maximum of two hundred (200) parking spaces for above grade parking and is two (2) square feet of floor area granted per one (1) square foot (2:1) of bonus feature for below grade parking up to a maximum of two hundred (200) parking spaces. Ratios and limits for the other features for which a bonus may be granted under subsection A2a are in Section 23.49.013.

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Section 2. The provisions of this ordinance are declared to be separate and severable. The invalidity of any particular provision shall not affect the validity of any other provision.

Section 3. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the ____ day of _____, 2005, and signed by me in open session in authentication of its passage this ____ day of _____, 2005.

President _____ of the City Council

Approved by me this ____ day of _____, 2005.

Gregory J. Nickels, Mayor

Filed by me this ____ day of _____, 2005.

City Clerk

(Seal)

Proposed additional section:

Section 2. The City Council finds that prior to August 2001 the Benaroya Hall Music Center site satisfied all the conditions required for the transfer of TDR from a major performing arts facility, as measured under the Land Use Code then in effect, and that the remainder of such TDR qualify for transfer pursuant to Section 23.49.014G. The Council also finds that one hundred thousand square feet of TDR remain qualified for transfer from the Benaroya Hall Music Center site.